HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No.15859 of 1996

Between:

K. Munirathnam Reddy. … Petitioner

and

1. The Joint Collector, Chittoor,

Chittoor District.

2. The Revenue Divisional Officer, Chittoor,

Chittoor District.

3. The Mandal Revenue Officer, Thavanampalle

Mandal, Chittoor District.

… Respondents

: O R D E R :

Counsel for the Petitioner : Sri M.R.S. Srinivas,

representing Sri

M.V.S. Suresh Kumar.

Counsel for the Respondents : Government Pleader for

Revenue.

Dated: 8th June, 2006

In this petition, the petitioner has prayed for quashing order dated 22.7.1996 passed by Joint Collector, Chittoor, Chittoor District, whereby he dismissed the appeal preferred by the petitioner against order dated 18.6.1996 passed by Revenue Divisional Officer, Chittoor, cancelling the licence granted by Mandal Rvenue Officer, Thavanampalli.

One of the grounds on which the petitioner has challenged the order impugned in the Writ Petition is that the appeal filed by him was dismissed by the Joint Collector without giving an opportunity of hearing. In paras 3 and 4 of the affidavit filed by him, the petitioner has averred as under:

> "3. While so, the Revenue Divisional Officer, Chittoor issued notice that the Mandal Revenue Officer, Thavanampalli, vide his proceedings

Roc.No.1510/95 dated 6.12.1995 recommended for cancellation of licence granted under EBO 19(B) and to now cause is to why the liecense granted in my favour should not be cancelled. I attended the enquiry on 17.6.1996. The Revenue Divisional Officer, Chittoor vide his proceedings Dis.No.G/6572/93 dated 18.6.1996 cancelled the leicnece granted in my favour on the ground that no evidence was produced by me that the licence was granted in my favour, that as per the recommendation of M.R.O., the Government land is essential for public purpose in due course. I submit that the report submitted by M.R.O is not binding on us and no notice was given to us by M.R.O. Further, it is apparent from the impugned order itself that we were granted licence in respect of Ac.3.00 in Sy.No.1/1 of Patnam village, and the question of adducing any evidence by me did not arise, there is no public purpose and the alleged need of Government land is a fictitious one and the said ground was alleged only as a ruse to cancel my licence at the instance of politically powerful people. Aggrieved by the said order, I filed an appeal before the Joint Collector on 8.7.1996. Along with appeal, I also filed a petition for stay on the very same day. However, no orders were passed on the stay petition to my knowledge and to the knowledge of my counsel. Hence, I was constrained to file W.P.No.15133/96 on the file of this Hon'ble Court on 30.7.1996, having waited for a period of about 3 weeks. This Hon'ble Court was pleased to dispose of the Writ petition on 2.8.1996 directing stay of eviction from the land in question pending disposal of the appeal before the Joint Collector. The said order is under communication to the Collector.

4. While so, it is submitted that my counsel on 2.8.1996, received an order passed by the Joint Collector dated 22.7.96 dismissing the appeal. The order shows that notice of appeal was issued to the appellants but it does not show that the appellants were served on the said notice. The order further reads that status quo was granted pending the appeal and the same stood vacated. In fact, the said order of status quo was never communicated to us. As no orders were communicated on the stay petition, I was constrained to file W.P.No.15133 of 1996. I submit that neither myself nor my counsel received notice of the appeal and thus the order passed by the Joint Collector is contrary to the principles of natural justice.

Taking advantage of the order of the 1st respondent, there is likelihood of my possession being interfered with by the Mandal Revenue Officer. I submit that I have time, energy and money for raising of the mango and coconut trees over the land and there is no justification in depriving me of the same, when the trees harvest started yielding fruits.

In paras 3, 4, 5 and 6 of the counter-affidavit filed by Sri S. Ahmed, the then Mandal Revenue Officer, Thavanampalli, Chittoor District, the following averments have been made:

"3. The petitioner was granted licence by the Mandal Revenue Officer under B.S.O., 19/B (2) for plantation of mango and coconut trees in S.No.1/1 in an extent of Ac.3.00 classified as River Poramboke of Patnam Village in D.Dis.No.739/92 dated 7.3.1992. Accordingly, the petitioner has planted trees in the land. On representation from the villagers, the Mandal Revenue Officer, Thavanampalli has submitted his report to the Revenue Divisional Officer, Chittoor in his Roc.No.1510/95, dated 6.12.96 stating that the land given to the petitioner, if an, is classified as River Poramboke and encroachments if any in all water course areas such as river, tank etc., highly objectionable and it is essential for public purpose and that recommended for cancellation of 19/B licence granted to the petitioner.

Accordingly, the Revenue Divisional Officer, Chittoo,r after conducting enquiry cancelled the licence in D. Dis.No.C/6572/93 dated 18.6.1996 granted to the petitioner as per Rule 19(B) of B.S.O.. Aggrieved by the said order, the petitioner preferred an appeal before the Joint Collector and the same has been dismissed in Joint Collector's Procgs.D.Dis.No.B9/12578/96 dated 2.7.1996. Against these orders, the petitioner filed the present writ petition.

4. The petitioner was granted licence under B.S.O.19(B)(2) to the extent of 3.00 acres in Sy.No.1/1 classified as River Poramboke at Patnam village for planting coconut and mango trees in Mandal Revenue Officer's D.Dis.No.739/92, dt.7.3.92. Accordingly, he has planted trees.

5 . On representation from the villagers the Mandal Revenue Officer, Thavanampallil has sent a detailed report to the Revenue Divisional Officer, Chittoor in Roc.No.1510/95 dated 6.12.1995 stating that the land for which licence was granted to the petitioner is a River Poramboke and it is required for public purpose and that recommended for cancellation of 19(B) licence granted to the petitioner. Notice was issued to the petitioner, conducted a detailed enquiry and cancelled the license issued by the Mandal Revenue Officer, Thavanampalli, in Chittoor Revenue Divisional Officer D.Dis.No.C/6572 dated 18.6.1996.

6. On the appeal filed by the petitioner, the Joint Collector has issued notices to the petitioner and after conducting enquiry dismissed the appeal in Joint Collector's Procgs.No.B9/12578/96, dt.22.7.96 in the circumstances explained above."

A careful reading of the above re-produced contents of the affidavits filed by the parties show that while the petitioner has categorically averred that neither he nor his counsel received notice of the appeal and Joint Collector decided the same without complying with the rules of natural justice, the respondents have not denied this assertion. It is, therefore, reasonable to hold that the appellate order is vitiated

due to violation of the rule of *audi alteram partem* and is liable to be quashed on that ground.

In the result, the Writ Petition is allowed. Order dated 22.7.1996 passed by the Joint Collector dismissing the appeal preferred by the petitioner against the order of Revenue Divisional Officer is set aside with a direction that the officer concerned shall decide the appeal afresh after hearing the petitioner or his representative.

Since the matter has been pending for more than one decade, I direct the petitioner to appear before the Joint Collector, Chittoor either in person or though his advocate on June, 26, 2006. The officer concerned shall pass appropriate order within next two months.

The Court Officer is directed to give attested copy of this order to the learned Government pleader for being communicated to the officer concerned so that he may be able to pass fresh order within the time specified in this order.

8th June, 2006 G.S. SINGHVI, CJ

vtv/GRR